

Office of Workers' Compensation Programs, Labor

§ 10.16

INFORMATION IN PROGRAM RECORDS

§ 10.10 Are all documents relating to claims filed under the FECA considered confidential?

All records relating to claims for benefits, including copies of such records maintained by an employer, are considered confidential and may not be released, inspected, copied or otherwise disclosed except as provided in the Freedom of Information Act and the Privacy Act of 1974.

§ 10.11 Who maintains custody and control of FECA records?

All records relating to claims for benefits filed under the FECA, including any copies of such records maintained by an employing agency, are covered by the government-wide Privacy Act system of records entitled DOL/GOVT-1 (Office of Workers' Compensation Programs, Federal Employees' Compensation Act File). This system of records is maintained by and under the control of OWCP, and, as such, all records covered by DOL/GOVT-1 are official records of OWCP. The protection, release, inspection and copying of records covered by DOL/GOVT-1 shall be accomplished in accordance with the rules, guidelines and provisions of this part, as well as those contained in 29 CFR parts 70 and 71, and with the notice of the system of records and routine uses published in the FEDERAL REGISTER. All questions relating to access/disclosure, and/or amendment of FECA records maintained by OWCP or the employing agency, are to be resolved in accordance with this section.

§ 10.12 How may a FECA claimant or beneficiary obtain copies of protected records?

(a) A claimant seeking copies of his or her official FECA file should address a request to the District Director of the OWCP office having custody of the file. A claimant seeking copies of FECA-related documents in the custody of the employer should follow the procedures established by that agency.

(b)(1) While an employing agency may establish procedures that an injured employee or beneficiary should follow in requesting access to docu-

ments it maintains, any decision issued in response to such a request must comply with the rules and regulations of the Department of Labor which govern all other aspects of safeguarding these records.

(2) No employing agency has the authority to issue determinations with respect to requests for the correction or amendment of records contained in or covered by DOL/GOVT-1. That authority is within the exclusive control of OWCP. Thus, any request for correction or amendment received by an employing agency must be referred to OWCP for review and decision.

(3) Any administrative appeal taken from a denial issued by the employing agency or OWCP shall be filed with the Solicitor of Labor in accordance with 29 CFR 71.7 and 71.9.

§ 10.13 What process is used by a person who wants to correct FECA-related documents?

Any request to amend a record covered by DOL/GOVT-1 should be directed to the district office having custody of the official file. No employer has the authority to issue determinations with regard to requests for the correction of records contained in or covered by DOL/GOVT-1. Any request for correction received by an employer must be referred to OWCP for review and decision.

RIGHTS AND PENALTIES

§ 10.15 May compensation rights be waived?

No employer or other person may require an employee or other claimant to enter into any agreement, either before or after an injury or death, to waive his or her right to claim compensation under the FECA. No waiver of compensation rights shall be valid.

§ 10.16 What criminal penalties may be imposed in connection with a claim under the FECA?

(a) A number of statutory provisions make it a crime to file a false or fraudulent claim or statement with the Government in connection with a claim under the FECA, or to wrongfully impede a FECA claim. Included among these provisions are sections 287, 1001, 1920, and 1922 of title 18, United States

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Code. Enforcement of these and other criminal provisions that may apply to claims under the FECA are within the jurisdiction of the Department of Justice.

(b) In addition, administrative proceedings may be initiated under the Program Fraud Civil Remedies Act of 1986 (PFCRA), 31 U.S.C. 3801-12, to impose civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted or presented, false, fictitious or fraudulent claims or written statements to OWCP in connection with a claim under the FECA. The Department of Labor's regulations implementing the PFCRA are found at 29 CFR part 22.

§ 10.17 Is a beneficiary who defrauds the Government in connection with a claim for benefits still entitled to those benefits?

When a beneficiary either pleads guilty to or is found guilty on either Federal or State criminal charges of defrauding the Federal Government in connection with a claim for benefits, the beneficiary's entitlement to any further compensation benefits will terminate effective the date either the guilty plea is accepted or a verdict of guilty is returned after trial, for any injury occurring on or before the date of such guilty plea or verdict. Termination of entitlement under this section is not affected by any subsequent change in or recurrence of the beneficiary's medical condition.

§ 10.18 Can a beneficiary who is incarcerated based on a felony conviction still receive benefits?

(a) Whenever a beneficiary is incarcerated in a State or Federal jail, prison, penal institution or other correctional facility due to a State or Federal felony conviction, he or she forfeits all rights to compensation benefits during the period of incarceration. A beneficiary's right to compensation benefits for the period of his or her incarceration is not restored after such incarceration ends, even though payment of compensation benefits may resume.

(b) If the beneficiary has eligible dependents, OWCP will pay compensation to such dependents at a reduced rate

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during the period of his or her incarceration, by applying the percentages of 5 U.S.C. 8133(a)(1) through (5) to the beneficiary's gross current entitlement rather than to the beneficiary's monthly pay.

(c) If OWCP's decision on entitlement is pending when the period of incarceration begins, and compensation is due for a period of time prior to such incarceration, payment for that period will only be made to the beneficiary following his or her release.

Subpart B—Filing Notices and Claims; Submitting Evidence

NOTICES AND CLAIMS FOR INJURY, DISEASE, AND DEATH—EMPLOYEE OR SURVIVOR'S ACTIONS

§ 10.100 How and when is a notice of traumatic injury filed?

(a) To claim benefits under the FECA, an employee who sustains a work-related traumatic injury must give notice of the injury in writing on Form CA-1, which may be obtained from the employer or from the Internet at www.dol.gov/dol/esa/owcp.htm. The employee must forward this notice to the employer. Another person, including the employer, may give notice of injury on the employee's behalf. The person submitting a notice shall include the Social Security Number (SSN) of the injured employee.

(b) For injuries sustained on or after September 7, 1974, a notice of injury must be filed within three years of the injury. (The form contains the necessary words of claim.) The requirements for filing notice are further described in 5 U.S.C. 8119. Also see § 10.205 concerning time requirements for filing claims for continuation of pay.

(1) If the claim is not filed within three years, compensation may still be allowed if notice of injury was given within 30 days or the employer had actual knowledge of the injury or death within 30 days after occurrence. This knowledge may consist of written records or verbal notification. An entry into an employee's medical record may also satisfy this requirement if it is sufficient to place the employer on notice of a possible work-related injury or disease.